

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

IN THE MATTER OF THE APPLICATION OF)	
COBSCOOK BAY AQUACULTURE, INC FOR)	FINDINGS OF FACT,
THE TRANSFER OF AN AQUACULTURE)	CONCLUSIONS OF LAW AND
LEASE LOCATED SOUTHEAST OF LEACH)	DECISION
POINT IN EAST BAY, PERRY, WASHINGTON)	
COUNTY, MAINE TO LARRY MATTHEWS,)	
D/B/A OCEAN HARVEST)	

On October 7, 2004, Cobscook Bay Aquaculture, Inc. applied for the transfer of an aquaculture lease to Larry Matthews d/b/a Ocean Harvest. The 4.90-acre aquaculture lease, CBAQ EB, is located southeast of Leach Point in East Bay, in Perry, Maine. The lease was issued on March 28, 1998 for a term of ten years, for the suspended and net pen culture of Atlantic salmon, rainbow trout, green sea urchins, blue mussels, sea scallops and quahogs.

Notice of the application for lease transfer was published in the December 2004 issue of Commercial Fisheries News and the November 26, 2004 and December 10, 2004 issues of the Quoddy Tides newspaper. Members of the public, riparians and interested persons were given to December 26, 2004 to submit comments or request a hearing on the application for lease transfer. No comments or requests for a hearing were received by the Department.

Applications for aquaculture lease transfers are governed by 12 M.R.S.A. §6072(12-A) and Chapter 2.60 of the Department's rules, which provide that an aquaculture lease may be transferred to another person for the remaining portion of its term if the commissioner determines that the change in lessee does not violate any of the lease issuance criteria set forth in 12 M.R.S.A. §6072(7-A); the transfer is not intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 M.R.S.A. §6072(8); the transfer is not for speculative purposes; and the transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 300 acres.

Larry Matthews d/b/a Ocean Harvest intends to utilize this site for the same purpose as allowed for in the original decision and lease. Therefore, the change in lessee will not result in a change in the type of activity that has been permitted on the site, pursuant to the lease issued in

accordance with the statutory criteria set forth in 12 M.R.S.A. §6072(7-A). The change in lessee to Larry Matthews d/b/a Ocean Harvest will not violate any of those criteria.

Section 8 of 12 M.R.S.A. § 6072 sets forth an order of preference if more than one person applies to lease an area. There were no competing applications for this lease area. Therefore, the transfer is not intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 M.R.S.A. §6072(8).

According to Department regulations, Chapter 2.60, "speculative purposes" shall be found to exist whenever the owner of the lease to be transferred has not conducted any substantial aquaculture on the lease sites, including but not limited to seeding, cultivation or harvest of organisms. According to the transfer application, the lease site has been used most recently for the cultivation of sea scallops. Mr. Matthews intends to use the site for the cultivation of urchins and/or shellfish. Therefore, the transfer is not for speculative purposes. Additionally, the transfer of this lease will not cause the transferee to lease more than 300 acres.

Finally, the transferee, Larry Matthews d/b/a/ Ocean Harvest, has agreed to the removal of Atlantic salmon and rainbow trout from the list of permitted species in the lease. Therefore, the new lease shall be issued for the cultivation of green sea urchins (*Strongylocentrotus droebachiensis*), blue mussels (*Mytilus edulis*), sea scallops (*Placopectin magellanicus*), and mahogany quahogs (*Arctica islandica*).

Decision

The Commissioner of Marine Resources grants the application of Cobscook Bay Aquaculture, Inc. for the transfer of the 4.90-acre aquaculture lease located southeast of Leach Point in East Bay, in Perry, Maine, to Larry Matthews d/b/a Ocean Harvest for the remainder of the lease term, to March 27, 2008. In the transfer of this lease Larry Matthews d/b/a Ocean Harvest is subject to the same terms, conditions, and obligations as set forth in the original lease, except that Atlantic salmon and rainbow trout shall no longer be permitted species.

Dated: _____

George D. Lapointe (Commissioner)
Department of Marine Resources